

FILED

DISTRICT COURT OF GUAM

OCT - 6 2005

MARY L.M. MORAN
CLERK OF COURT

JOHN T. GORMAN
Federal Public Defender
District of Guam

KIM SAVO
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Attorney for Defendant
DAVID EVAN DEN BOER

IN THE UNITED STATES DISTRICT COURT

FOR THE TERRITORY OF GUAM

| | |
|---------------------------|---------------------------------|
| UNITED STATES OF AMERICA, |) CR 05-00057 |
| |) |
| Plaintiff, |) MOTION FOR COMPETENCY HEARING |
| |) PURSUANT TO 18 U.S.C. § 4241 |
| vs. |) |
| |) |
| DAVID EVAN DEN BOER, |) |
| |) |
| Defendant. |) |
| |) |

Defendant, David Evan Den Boer, by and through counsel, Kim Savo, Assistant Federal Public Defender, respectfully moves this Court for a competency hearing pursuant to

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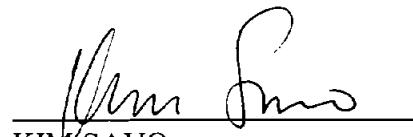
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18 U.S.C. § 4241 to determine the mental competency of the defendant.

DATED: Mongmong, Guam, October 6, 2005.



KIM SAVO
Attorney for Defendant
DAVID EVAN DEN BOER

MEMORANDUM OF POINTS AND AUTHORITIES

After the commencement of a prosecution and prior to the sentencing of the defendant, the defendant may file a motion for a hearing to determine his mental competency. *See* U.S.C. § 4241(a).

Defense counsel has reasonable cause to believe that the defendant has been suffering from a mental disease or defect, from the time of the offense to the present, rendering him mentally incompetent to the extent that he is unable to understand the nature and the consequences of the proceedings against him or to assist properly in his defense. *Id.*

Defense counsel retained Dr. Pablo Stewart to conduct a forensic evaluation of Mr. Den Boer. On September 6, 2005, Dr. Stewart wrote a report reaching the conclusion that Mr. Den Boer is presently incompetent. *See* Report of Dr. Pablo Stewart, lodged concurrently under seal.

Based on Dr. Stewart's report, it is defense counsel's obligation to request a competency hearing pursuant to Section 4241.

DATED: Mongmong, Guam, October 6, 2005.



KIM SAVO
Attorney for Defendant
DAVID EVAN DEN BOER

CERTIFICATE OF SERVICE

I, ALEXANDER A. MODABER, hereby certify that a true and exact copy of the foregoing document was duly mailed and/or hand-delivered to the following on October 6, 2005:

JOSEPH TOCK
Special Assistant United States Attorney
Sirena Plaza
108 Hernan Cortez, Ste. 500
Hagatna, Guam 96910

Attorney for Plaintiff
UNITED STATES OF AMERICA

DATED: Mongmong, Guam, October 6, 2005.


for ALEXANDER A. MODABER
Investigator

KIM SAVO
Attorney for Defendant
David Evan Den Boer